

June 16, 1998

Gunowners Following the Law Caught in the Administration's Crossfire

Give Them Relief as a Simple Matter of Fairness

On April 6, 1998, the White House revoked import permits for 57 types of semi-automatic firearms. The Administration, through a Treasury study, stated that the 57 semi-automatic firearms — legal under both the 1994 semi-automatic gun ban, and under previous interpretations of the more rigorous "sporting purposes" test — are now illegal. This Administration, not by rewriting laws but simply by re-reading them, now deems the firearms as "not generally recognized as particularly suitable for or readily adaptable to sporting purposes," and thereby failing the "sporting purposes" test. [For background, see RPC paper, "Clinton's New Gun Ban," 3/16/98.]

The Treasury study based its revocation not on prior interpretations of the "sporting purposes" standard but on new criteria — the capability of the firearm to accept large-capacity military magazines. This addition to the long-established letter of the law was premised only on "the Secretary's discretion in applying the sporting purposes test" [18 USC 925(d)(3)].

Unfortunately, the Administration's new interpretation leaves some American citizens under the threat of financial ruin.

Previously Approved Applications Revoked

The Administration's order revoked not only applications for future import permits but also approved permits. That means some firearms already paid for and in-transit to the United States are now banned for importation.

Importers with existing permits had no prior notice of this revocation. They acted in good faith on these approved permits by finalizing contracts to receive the property. These contracts required advance payments to cover shipping and handling of the items.

Property owners, in this case firearms importers, are now faced with potential bankruptcy. There is no viable re-export market for this property. The property cannot be returned to the original manufacturer for refund and, of course, cannot be brought into the United States.

For the property already in-transit, the Bureau of Alcohol, Tobacco and Firearms will take possession and bill the importer for storage in a government-bonded warehouse. Not only then are the importers *deprived* of the cost of purchase and any anticipated profits but are now *required* to pay storage costs. Even worse, mounting storage costs continue until the importer goes bankrupt or destroys the property.

Precedent for Relief

On May 26, 1994, President Clinton announced an embargo on Chinese guns and ammunition. The Secretary of the Treasury, with instructions from the Secretary of State, interpreted the decision as encompassing permits already issued, even those already in transit or even those already in bonded U.S. warehouses.

Following criticisms offered by both parties, the Administration embraced language to provide compensation for the property owners. The amendment released property for import *only* if it was in transit, in bonded warehouses, in port or in a foreign trade zone with permits issued prior to the embargo. The Senate unanimously agreed to the language on July 22, 1994, and it was signed into law by President Clinton on August 8, 1994, as part of H.R. 4603, the Commerce-State-Justice Appropriations bill [Public Law 103-317].

Simply a Matter of Fairness

James Madison, architect of our Nation's Bill of Rights, stated "that is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty, is violated by arbitrary seizure of one class of citizens for the service of the rest."

The good faith of importers should not be held against them and must not be used to destroy them. Both the Senate and the Administration have previously endorsed the proposal to spare law-abiding property owners punishment. Fairness demands it.

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